

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Crim. No. 05-097(01) (MJD/JGL)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

CHARLES PETERSEN (01),

Defendant.

APPEARANCES

John Docherty, Esq., Assistant United States Attorney, for Plaintiff United States of America

Scott Tilsen, Esq. for Defendant Charles Petersen

JONATHAN LEBEDOFF, Chief United States Magistrate Judge

The above-entitled matter came on for hearing before the undersigned Chief Magistrate Judge of District Court on May 10, 2005. The case has been referred to the undersigned for resolution of pretrial matters pursuant to 28 U.S.C. § 636 and D. Minn. LR 72.1.

An Indictment was filed against Defendant Charles and Karen Petersen on March 22, 2005, charging them with (1) conspiracy to impair or impede the lawful functioning and due administration of the Internal Revenue Service; (2) conspiracy to evade taxes; and (3) conspiracy to willfully fail to file

a tax return. This Court held a pretrial motion hearing on May 10, 2005 at which Defendant Charles Petersen was present and represented by counsel.

Defendant's dispositive motions will be addressed in this Report and Recommendation. Defendant's nondispositive pretrial motions are addressed in a separate Order.

At the hearing, Defendant's counsel acknowledged that Defendant's motions to suppress were moot. Accordingly, the motions should be denied as moot. Defendant's counsel also stated at the hearing that he believed there was a defect with the Indictment, but he could not identify it and requested time to research and brief the issue. Defendant was granted until May 17, 2005 to submit a memorandum, but he did not file one. Because Defendant has not articulated a legal or factual basis for his motion, the Court recommends that it be denied.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED:**

(1) Defendant Charles Petersen's Motion to Suppress Statements, Admissions, and Answers (Doc. #13) should be **DENIED AS MOOT**;

(2) Defendant Charles Petersen's Motion to Suppress Evidence Obtained as a Result of Search and Seizure (Doc. #14) should be **DENIED AS MOOT**; and

(3) Defendant Charles Petersen's Motion to Dismiss Counts or Require an Election (Doc. #17) should be **DENIED**.

Dated: May 25, 2005

s/ Jonathan Lebedoff
JONATHAN LEBEDOFF
Chief United States Magistrate Judge

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by June 14, 2005. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit. Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed within ten days a complete transcript of the hearing.